

Assembly Bill No. 2810

Passed the Assembly August 22, 2000

Chief Clerk of the Assembly

Passed the Senate August 18, 2000

Secretary of the Senate

This bill was received by the Governor this _____ day
of _____, 2000, at _____ o'clock ____M.

Private Secretary of the Governor

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CHAPTER _____

An act to amend Sections 6400, 6402, 6403, 6404, and 6405 of the Business and Professions Code, relating to legal document and unlawful detainer assistants, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

AB 2810, Robert Pacheco. Legal document and unlawful detainer assistants: registration.

Existing law generally regulates legal document and unlawful detainer assistants, as defined, and, among other things, requires them to be registered with the county clerk in each county in which the services are being provided and to include with each registration application certain information, including the applicant's address and telephone number, as well as a fee paid to the county clerk, and a bond or cash deposit in the amount of \$25,000.

This bill would require registration in the county in which a legal document or unlawful detainer assistant has his or her principal place of business and in any other county in which he or she performs acts for which registration is required. This bill would require an applicant to specify in his or her application whether he or she is applying for primary or secondary registration, as defined, and would require that the bond accompanying the registration be in favor of the State of California for the benefit of persons damaged by specified acts of the registrants. This bill would require an applicant for secondary registration, as defined, to include with an application, a certified copy of the bond or cash deposit posted in the county of the applicant's principal place of business instead of requiring the applicant to post an additional bond or cash deposit.

This bill would incorporate additional changes in Section 6405 of the Business and Professions Code proposed by SB 1927, to become operative only if both



bills are enacted and become operative, as specified, and this bill is enacted last.

This bill would declare that it is to take effect immediately as an urgency statute.

The people of the State of California do enact as follows:

SECTION 1. Section 6400 of the Business and Professions Code is amended to read:

6400. (a) “Unlawful detainer assistant” means any individual who for compensation renders assistance or advice in the prosecution or defense of an unlawful detainer claim or action, including any bankruptcy petition that may affect the unlawful detainer claim or action.

(b) “Unlawful detainer claim” means a proceeding, filing, or action affecting rights or liabilities of any person that arises under Chapter 4 (commencing with Section 1159) of Title 3 of Part 3 of the Code of Civil Procedure and that contemplates an adjudication by a court.

(c) “Legal document assistant” means:

(1) Any person who is not exempted under Section 6401 and who provides, or assists in providing, or offers to provide, or offers to assist in providing, for compensation, any self-help service to a member of the public who is representing himself or herself in a legal matter, or who holds himself or herself out as someone who offers that service or has that authority. This paragraph shall not apply to any individual whose assistance consists merely of secretarial or receptionist services.

(2) A corporation, partnership, association, or other entity that employs or contracts with any person not exempted under Section 6401 who, as part of his or her responsibilities, provides, or assists in providing, or offers to provide, or offers to assist in providing, for compensation, any self-help service to a member of the public who is representing himself or herself in a legal matter or holds himself or herself out as someone who offers that service or has that authority. This paragraph



shall not apply to an individual whose assistance consists merely of secretarial or receptionist services.

(d) “Self-help service” means all of the following:

(1) Completing legal documents in a ministerial manner, selected by a person who is representing himself or herself in a legal matter, by typing or otherwise completing the documents at the person’s specific direction.

(2) Providing general published factual information that has been written or approved by an attorney, pertaining to legal procedures, rights, or obligations to a person who is representing himself or herself in a legal matter, to assist the person in representing himself or herself. This service in and of itself, shall not require registration as a legal document assistant.

(3) Making published legal documents available to a person who is representing himself or herself in a legal matter.

(4) Filing and serving legal forms and documents at the specific direction of a person who is representing himself or herself in a legal matter.

(e) “Compensation” means money, property, or anything else of value.

(f) A legal document assistant, including any legal document assistant employed by a partnership or corporation, shall not provide any self-help service for compensation after January 1, 2000, unless the legal document assistant is registered in the county in which his or her principal place of business is located and in any other county in which he or she performs acts for which registration is required.

(g) A legal document assistant shall not provide any kind of advice, explanation, opinion, or recommendation to a consumer about possible legal rights, remedies, defenses, options, selection of forms, or strategies. A legal document assistant shall complete documents only in the manner prescribed by paragraph (1) of subdivision (d).

(h) This section shall remain in effect only until January 1, 2003, or the date the director suspends the requirements of this chapter applicable to legal

document assistants pursuant to Section 6416, whichever first occurs, and as of that date is repealed, unless a later enacted statute, that is enacted before that date, deletes or extends that date.

SEC. 2. Section 6402 of the Business and Professions Code, as amended by Section 8 of Chapter 1079 of the Statutes of 1998, is amended to read:

6402. A legal document assistant or unlawful detainer assistant shall be registered pursuant to this chapter by the county clerk in the county in which his or her principal place of business is located (deemed primary registration), and in any other county in which he or she performs acts for which registration is required (deemed secondary registration). Any registration in a county other than the county of the person's place of business shall state the person's principal place of business and provide proof that the registrant has satisfied the bonding requirement of Section 6405. No person who has been disbarred or suspended from the practice of law pursuant to Article 6 (commencing with Section 6100) of Chapter 4 shall, during the period of any disbarment or suspension, register as a legal document assistant or unlawful detainer assistant. The Department of Consumer Affairs shall, by July 1, 1999, develop the application that shall be completed by a person for purposes of registration as a legal document assistant. The application shall specify the types of proof that the applicant shall provide to the county clerk in order to demonstrate the qualification and requirements of Section 6402.1.

This section shall remain in effect only until January 1, 2003, or the date the director suspends the requirements of this chapter applicable to legal document assistants pursuant to Section 6416, whichever first occurs, and as of that date is repealed, unless a later enacted statute, that is enacted before that date, deletes or extends that date.

SEC. 3. Section 6402 of the Business and Professions Code, as added by Section 9 of Chapter 1079 of the Statutes of 1998, is amended to read:

6402. An unlawful detainer assistant shall be registered pursuant to this chapter by the county clerk in



the county in which his or her principal place of business is located (deemed primary registration), and in any other county in which he or she performs acts for which registration is required (deemed secondary registration). Any registration in a county other than the county of the person's place of business shall state the person's principal place of business and provide proof that the registrant has satisfied the bonding requirement of Section 6405. No person who has been disbarred or suspended from the practice of law pursuant to Article 6 (commencing with Section 6100) of Chapter 4 shall, during the period of any disbarment or suspension, register as an unlawful detainer assistant.

This section shall become operative January 1, 2003, or the date the director suspends the requirements of this chapter applicable to legal document assistants pursuant to Section 6416, whichever first occurs.

SEC. 4. Section 6403 of the Business and Professions Code, as added by Chapter 1079 of the Statutes of 1998, is amended to read:

6403. (a) The application for registration of a natural person shall contain all of the following statements about the applicant:

(1) Name, age, address, and telephone number.

(2) Whether he or she has been convicted of a felony, or of a misdemeanor under Section 6126 or 6127.

(3) Whether he or she has been held liable in a civil action by final judgment or consented to the entry of a stipulated judgment, if the action alleged fraud, or the use of untrue or misleading representations, or the use of an unfair, unlawful, or deceptive business practice.

(4) Whether this is a primary or secondary registration. If it is a secondary registration, the county in which primary registration is filed.

(b) The application for registration of a partnership or corporation shall contain all of the following statements about the applicant:

(1) The names, ages, addresses, and telephone numbers of the general partners or officers.



(2) Whether the general partners or officers have ever been convicted of a felony.

(3) Whether the general partners or officers have ever been held liable in a civil action by final judgment or have consented to the entry of a stipulated judgment. If the action alleged fraud, whether it involved the use of untrue or misleading representations, or the use of an unfair, unlawful, or deceptive business practice.

(4) Whether this is a primary or secondary registration. If it is a secondary registration, the county in which primary registration is filed.

(c) This section shall become operative January 1, 2003, or the date the director suspends the requirements of this chapter applicable to legal document assistants pursuant to Section 6416, whichever first occurs.

SEC. 5. Section 6403 of the Business and Professions Code, as amended by Chapter 1079 of the Statutes of 1998, is amended to read:

6403. (a) The application for registration of a natural person shall contain all of the following statements about the applicant:

(1) Name, age, address, and telephone number.

(2) Whether he or she has been convicted of a felony, or of a misdemeanor under Section 6126 or 6127.

(3) Whether he or she has been held liable in a civil action by final judgment or entry of a stipulated judgment, if the action alleged fraud, or the use of an untrue or misleading representation, or the use of an unfair, unlawful, or deceptive business practice.

(4) Whether he or she has ever been convicted of a misdemeanor violation of this chapter.

(5) Whether he or she has had a civil judgment entered against him or her in an action arising out of the applicant's negligent, reckless, or willful failure to properly perform his or her obligation as a legal document assistant or unlawful detainer assistant.

(6) Whether he or she has had a registration revoked pursuant to Section 6413.

(7) Whether this is a primary or secondary registration. If it is a secondary registration, the county in which primary registration is filed.

(b) The application for registration of a natural person shall be accompanied by the display of personal identification, such as a California driver's license, birth certificate, or other identification acceptable to the county clerk to adequately determine the identity of the applicant.

(c) The application for registration of a partnership or corporation shall contain all of the following statements about the applicant:

(1) The names, ages, addresses, and telephone numbers of the general partners or officers.

(2) Whether the general partners or officers have ever been convicted of a felony, or a misdemeanor under Section 6126 or 6127.

(3) Whether the general partners or officers have ever been held liable in a civil action by final judgment or entry of a stipulated judgment, if the action alleged fraud, or the use of an untrue or misleading representation, or the use of an unfair, unlawful, or deceptive business practice.

(4) Whether the general partners or officers have ever been convicted of a misdemeanor violation of this chapter.

(5) Whether the general partners or officers have had a civil judgment entered against them in an action arising out of a negligent, reckless, or willful failure to properly perform the obligations of a legal document assistant or unlawful detainer assistant.

(6) Whether the general partners or officers have ever had a registration revoked pursuant to Section 6413.

(7) Whether this is a primary or secondary registration. If it is a secondary registration, the county in which primary registration is filed.

(d) The applications made under this section shall be made under penalty of perjury.

(e) This section shall remain in effect only until January 1, 2003, or the date the director suspends the



requirements of this chapter applicable to legal document assistants pursuant to Section 6416, whichever first occurs, and as of that date is repealed, unless a later enacted statute, that is enacted before that date, deletes or extends that date.

SEC. 6. Section 6404 of the Business and Professions Code is amended to read:

6404. An applicant shall pay a fee of one hundred seventy-five dollars (\$175) to the county clerk at the time he or she files an application for initial registration, including a primary or secondary registration, or renewal of registration. An additional fee of ten dollars (\$10) shall be paid to the county clerk for each additional identification card.

SEC. 7. Section 6405 of the Business and Professions Code is amended to read:

6405. (a) (1) An application for a certificate of registration by an individual shall be accompanied by a bond of twenty-five thousand dollars (\$25,000) executed by a corporate surety qualified to do business in this state and conditioned upon compliance with this chapter. The total aggregate liability on the bond shall be limited to twenty-five thousand dollars (\$25,000). An application for secondary registration shall meet all of the requirements of this subdivision, except that in place of posting another original bond or cash deposit, the applicant shall include a certified copy of the bond or cash deposit posted in the county in which the applicant filed the primary registration.

(2) An application for a certificate of registration by a partnership or corporation shall be accompanied by a bond of twenty-five thousand dollars (\$25,000) executed by a corporate surety qualified to do business in this state and conditioned upon compliance with this chapter. The total aggregate liability on the bond shall be limited to twenty-five thousand dollars (\$25,000). An application for a certificate of registration by a person employed by a partnership or corporation shall be accompanied by a bond of twenty-five thousand dollars (\$25,000) only if the partnership or corporation has not posted a bond of



twenty-five thousand dollars (\$25,000) as required by this subdivision. An application for secondary registration shall meet all of the requirements of this subdivision, except that in place of posting another original bond or cash deposit, the applicant shall include a certified copy of the bond or cash deposit posted in the county in which the applicant filed the primary registration.

(3) The bond may be terminated pursuant to Section 995.440 of, and Article 13 (commencing with Section 996.310) of Chapter 2 of Title 14 of Part 2 of, the Code of Civil Procedure.

(b) The county clerk shall, upon filing of the bond, deliver the bond forthwith to the county recorder for recording. The recording fee specified in Section 27361 of the Government Code shall be paid by the registrant. The fee may be paid to the county clerk who shall transmit it to the recorder.

(c) The fee for filing, canceling, revoking, or withdrawing the bond is seven dollars (\$7).

(d) The county recorder shall record the bond and any notice of cancellation, revocation, or withdrawal of the bond, and shall thereafter mail the instrument, unless specified to the contrary, to the person named in the instrument and, if no person is named, to the party leaving it for recording. The recording fee specified in Section 27361 of the Government Code for notice of cancellation, revocation, or withdrawal of the bond shall be paid to the county clerk, who shall transmit it to the county recorder.

(e) In lieu of the bond required by subdivision (a), a registrant may deposit twenty-five thousand dollars (\$25,000) in cash with the county clerk.

(f) If the certificate is revoked, the bond or cash deposit shall be returned to the bonding party or depositor subject to subdivision (g) and the right of a person to recover against the bond or cash deposit under Section 6412.

(g) The county clerk may retain a cash deposit until the expiration of three years from the date the registrant has ceased to do business, or three years from the



expiration or revocation date of the registration, in order to ensure there are no outstanding claims against the deposit. A judge of a municipal or superior court may order the return of the deposit prior to the expiration of three years upon evidence satisfactory to the judge that there are no outstanding claims against the deposit.

(h) The bond required by this section shall be in favor of the State of California for the benefit of any person who is damaged as a result of the violation of this chapter or by the fraud, dishonesty, or incompetency of an individual, partnership, or corporation registered under this chapter. The bond required by this section shall also indicate the name of the county in which it will be filed.

SEC. 7.5. Section 6405 of the Business and Professions Code is amended to read:

6405. (a) (1) Except as provided in paragraph (3), an application for a certificate of registration by an individual shall be accompanied by a bond of twenty-five thousand dollars (\$25,000) executed by a corporate surety qualified to do business in this state and conditioned upon compliance with this chapter. The total aggregate liability on the bond shall be limited to twenty-five thousand dollars (\$25,000). An application for secondary registration shall meet all of the requirements of this subdivision, except that in place of posting another original bond or cash deposit, the applicant shall include a certified copy of the bond or cash deposit posted in the county in which the applicant filed the primary registration.

(2) An application for a certificate of registration by a partnership or corporation shall be accompanied by a bond of twenty-five thousand dollars (\$25,000) executed by a corporate surety qualified to do business in this state and conditioned upon compliance with this chapter. The total aggregate liability on the bond shall be limited to twenty-five thousand dollars (\$25,000). An application for a certificate of registration by a person employed by a partnership or corporation shall be accompanied by a bond of twenty-five thousand dollars (\$25,000) only if the partnership or corporation has not posted a bond of



twenty-five thousand dollars (\$25,000) as required by this subdivision. An application for secondary registration shall meet all of the requirements of this subdivision, except that in place of posting another original bond or cash deposit, the applicant shall include a certified copy of the bond or cash deposit posted in the county in which the applicant filed the primary registration.

(3) A legal document assistant who files an application for a certificate of registration in the County of Riverside, who limits his or her practice to that county, and who limits his or her practice solely to assisting either party in a small claims court action, may, in lieu of providing a bond of twenty-five thousand dollars (\$25,000), provide a bond of five thousand dollars (\$5,000) executed by a corporate surety qualified to do business in this state and conditioned upon compliance with this chapter. The total aggregate liability on the bond shall be limited to five thousand dollars (\$5,000). An application for a certificate of registration accompanied by a bond of five thousand dollars (\$5,000) as authorized by this paragraph shall indicate that the legal document assistant limits his or her practice solely to assisting parties in small claims actions.

(4) The bond may be terminated pursuant to Section 995.440 of, and Article 13 (commencing with Section 996.310) of Chapter 2 of Title 14 of Part 2 of, the Code of Civil Procedure.

(b) The county clerk shall, upon filing of the bond, deliver the bond forthwith to the county recorder for recording. The recording fee specified in Section 27361 of the Government Code shall be paid by the registrant. The fee may be paid to the county clerk, who shall transmit it to the recorder.

(c) The fee for filing, canceling, revoking, or withdrawing the bond is seven dollars (\$7).

(d) The county recorder shall record the bond and any notice of cancellation, revocation, or withdrawal of the bond, and shall thereafter mail the instrument, unless specified to the contrary, to the person named in the instrument and, if no person is named, to the party leaving it for recording. The recording fee specified in



Section 27361 of the Government Code for notice of cancellation, revocation, or withdrawal of the bond shall be paid to the county clerk, who shall transmit it to the county recorder.

(e) In lieu of the bond required by subdivision (a), a registrant may deposit twenty-five thousand dollars (\$25,000) or five thousand dollars (\$5,000), as applicable, in cash with the county clerk.

(f) If the certificate is revoked, the bond or cash deposit shall be returned to the bonding party or depositor subject to subdivision (g) and the right of a person to recover against the bond or cash deposit under Section 6412.

(g) The county clerk may retain a cash deposit until the expiration of three years from the date the registrant has ceased to do business, or three years from the expiration or revocation date of the registration, in order to ensure there are no outstanding claims against the deposit. A judge of a municipal or superior court may order the return of the deposit prior to the expiration of three years upon evidence satisfactory to the judge that there are no outstanding claims against the deposit.

(h) The bond required by this section shall be in favor of the State of California for the benefit of any person who is damaged as a result of the violation of this chapter or by the fraud, dishonesty, or incompetency of an individual, partnership, or corporation registered under this chapter. The bond required by this section shall also indicate the name of the county in which it will be filed.

SEC. 8. Section 7.5 of this bill incorporates amendments to Section 6405 of the Business and Professions Code proposed by both this bill and SB 1927. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2001, but this bill becomes operative first, (2) each bill amends Section 6405 of the Business and Professions Code, and (3) this bill is enacted after SB 1927, in which case Section 6405 of the Business and Professions Code, as amended by Section 7 of this bill, shall remain operative only until the



operative date of SB 1927, at which time Section 7.5 of this bill shall become operative.

SEC. 9. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

This act would prevent legal document and unlawful detainer assistants from incurring bond costs associated with registering in counties in which they practice but do not maintain a principal place of business and would further the protection of consumers by requiring that bonds filed in connection with this registration procedure be in favor of the State of California for the benefit of persons damaged by specified acts of these registrants. In order to provide at the earliest possible time that consumers receive greater protection and registrants be relieved of the hardship of bonding expenses in multiple jurisdictions, it is necessary that this act take effect immediately.



Approved _____, 2000

Governor

